IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

LETTERS PATENT APPEAL No. 1245 of 2005
In
SPECIAL CIVIL APPLICATION No. 12556 of 2004

For Approval and Signature:

HONOURABLE MR.JUSTICE B.J.SHETHNA
HONOURABLE MR.JUSTICE M.C.PATEL

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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MANAJI VISAJI BHOI - Appellant(s)

Versus

DIVISIONAL CONTROLLER - Respondent(s)

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Appearance :
MR JS BRAHMBHATT for Appellant(s) : 1,
MS SEJAL K MANDAVIA for Respondent(s) : 1,
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CORAM : HONOURABLE MR.JUSTICE B.J.SHETHNA
and
HONOURABLE MR.JUSTICE M.C.PATEL

Date : 18/10/2005

ORAL JUDGMENT (Per : HONOURABLE MR.JUSTICE B.J.SHETHNA)

Admit. Ms. Mandavia appears and waives service for the respondent. At the joint request of the learned counsel for the parties, this appeal is heard and

disposed of today by this order.

2. There was an award passed by the Labour Court, Ahmedabad in favour of the appellant – workman in Reference (LCA) No.1618 of 2001 dated 28th January, 2004 to reinstate him in service with all other consequential benefits of service but without back wages. The said award was not implemented, therefore, writ petition i.e. Special Civil Application No.12556 of 2004 was filed by the appellant – workman before this court which was summarily dismissed by one line order, “The petition is misconceived, hence dismissed with no order as to costs.” passed by the learned Single Judge of this court. Hence, this appeal.

3. It is stated at the bar by both the learned counsel for the parties that the appellant – workman reached the age of superannuation on 30th September, 2004 after the award passed by the Labour Court in favour of the respondent – workman. The impugned award was challenged by the respondent - Corporation before this court by way of a writ petition which was dismissed. After the dismissal of the writ petition, when the Corporation decided not to carry the matter further, it has to

implement the award.

4. The appellant – workman reached the age of superannuation on 30th September, 2004, as stated earlier. Therefore, now there is no question of reinstating him in service. However, he will be entitled for all other benefits of service, except back wages, as awarded by the Labour Court.

4.1 In view of the above, this appeal is allowed and writ petition i.e. Special Civil Application No.12556 of 2004 filed by the appellant – workman is accepted and the respondent – Corporation is hereby directed to implement the impugned judgment and award passed by the Labour Court in favour of the respondent - workman as early as possible and not later than 31st December, 2005 by extending all other consequential benefits of service, except back wages, to the respondent – workman as if his services were never terminated till the date of his superannuation i.e. 30th September, 2004. The question of reinstatement of the appellant – workman does not survive in view of the fact that he has already reached the age of superannuation on 30th September, 2004. Accordingly, this appeal is allowed with no order as to costs.

Copy of this order be given to both learned counsel Shri Brahmbhatt for the appellant – workman and Ms. Mandavia for the respondent – Corporation for its immediate implementation forthwith.

(B.J. Shethna, J.)

(M.C. Patel, J.)

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